

September 13, 2010

Via Electronic Submission

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

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Re: Notice of Ex Parte Communication

**WT Docket No. 02-55; ET Docket Nos. 00-258, 95-18;
New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for
Transfer of Control of Earth Station Licenses and Authorizations, File
Nos. SES-T/C-20091211-01575, SES-T/C-20091211-1576, SAT-T/C-
0091211-00144.**

Dear Ms. Dortch:

On Monday, September 13, 2010, Lawrence R. Krevor and Trey Hanbury of Sprint Nextel Corporation ("Sprint Nextel"), Marc S. Martin and Thomas F. Cooney of K&L Gates LLP met with Louis Peraertz, Legal Advisor to Commissioner Mignon Clyburn of the Federal Communications Commission ("Commission") regarding the above-captioned proceedings.

Mr. Cooney, a corporate M&A and securities lawyer and an adjunct professor of business planning at George Washington University Law School for 22 years, explained that he had reviewed all of the 2005 Transaction documents that ICO Global Communications (Holdings) Limited ("ICO Global") filed with the Commission on September 3, 2010.¹

Mr. Cooney stated that the 2005 Transaction was not, as a factual or legal matter, a transformative event that affected or restricted ICO Global's controlling role with respect to its subsidiary, New DSBD Satellite Services G.P. (with its affiliates, "DBSD"). Rather, it

¹ ICO Global Notice of *Ex Parte* Presentation, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Applications for Transfer of Control, File Nos. SAT-T/C-0091211-00144, *et al.* (Sept. 3, 2010) ("*ICO Global September 3 Notice of Ex Parte Presentation*"). This *ex parte* filing included documents from a 2005 DBSD debt financing transaction (hereinafter, the "2005 Transaction").

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was a fairly routine and narrowly tailored debt financing with standard covenants to ensure that the proceeds from the loan were used by DBSD, the entity receiving the loan, to carry out the business plan described to the lenders. The 2005 Transaction's covenants and default terms in no relevant way restricted the activities of DBSD's parent, ICO Global, from the way in which they were conducted prior to the financing. To the contrary, the 2005 Transaction documents expressly recognized that ICO Global's control of and direct involvement in DBSD would continue after the transaction.²

Mr. Cooney also explained that unless and until the conversion rights held by the lenders are exercised, the lenders have no equity or equity-like rights, and therefore there is no reason to look at the impact of the 2005 Transaction on a fully-diluted basis. Mr. Cooney went on to note, however, that even if such rights were exercised by the lenders to dilute ICO Global's equity stake, that ICO Global would still be in control of DBSD by virtue of its ability to elect a majority of the Board of Directors of DBSD.

Thus, given ICO Global's admission of conducting itself together with DBSD as a common enterprise prior to the 2005 Transaction, the absence of anything in the 2005 Transaction that legally curtailed ICO Global's continued control of and involvement in DBSD after 2005, and the facts in the record of ICO Global's direct involvement in DBSD's operations since 2005,³ Sprint Nextel concluded that ICO Global's "11th hour" escalation of the 2005 Transaction's alleged significance is simply another misguided effort to mislead and distract the Commission.

In addition, Sprint Nextel reiterated the interpretations and clarifications that it seeks in the above-captioned rulemaking proceeding, consistent with its *ex parte* filing of September 10, 2010.

Pursuant to Section 1.1206 of the Commission's Rules, a copy of this letter is being filed electronically in the above-referenced dockets and electronic copies are being submitted

² See *id.*, Exhibit C.1 at 59.

³ See, e.g., Sprint Nextel Written *Ex Parte* Presentation, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations, File Nos. SES-T/C-20091211-01575, SES-T/C-20091222-1576, SAT-T/C-0091211-00144 (July 28, 2010), at 3-8 ("*Sprint Nextel July 28 Written Ex Parte Presentation*"); Sprint Nextel Notice of *Ex Parte* Communication, WT Docket No. 02-55, ET Docket Nos. 00-258, 95-18; New DBSD Satellite Services G.P., Debtor-in-Possession, Applications for Transfer of Control of Earth Station Licenses and Authorizations, File Nos. SES-T/C-20091211-01575, SES-T/C-20091222-1576, SAT-T/C-0091211-00144 (Sept. 1, 2010) ("*Sprint Nextel September 1 Notice of Ex Parte Communication*").

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to Commission staff listed below. If you have any questions, please feel free to contact me at (202) 778-9859.

Sincerely,

/s/ Marc S. Martin

Marc S. Martin

Counsel for Sprint Nextel Corporation

cc: Austin Schlick
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